

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 684

Introduced by Raikes, 25

Read first time January 22, 2003

Committee: Education

A BILL

1 FOR AN ACT relating to the Private Postsecondary Career School Act;
2 to amend sections 85-1603, 85-1604, 85-1620, 85-1622,
3 85-1640, and 85-1643, Reissue Revised Statutes of
4 Nebraska; to define and redefine terms; to change
5 exemptions; to provide for certain degree programs as
6 prescribed; to change provisions relating to agents,
7 bonds, and fees; to harmonize provisions; to repeal the
8 original sections; and to declare an emergency.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 85-1603, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 85-1603. For purposes of the Private Postsecondary
4 Career School Act:

5 (1) Agent means any person who owns any interest in, is
6 employed by, or regularly represents for remuneration a private
7 postsecondary career school located within or outside this state
8 who (a) by solicitation made in this state enrolls or seeks to
9 enroll a resident of this state for education offered by such
10 school, (b) offers to award educational credentials for
11 remuneration on behalf of any such school, or (c) holds himself or
12 herself out to residents of this state as representing such a
13 school;

14 (2) Agent's permit means a nontransferable, written
15 authorization issued to a natural person by the department which
16 allows that person to solicit or enroll any resident of this state
17 for education in a private postsecondary career school;

18 (3) Authorization to operate means approval by the
19 department to operate a private postsecondary career school in this
20 state;

21 (4) Board means the State Board of Education;

22 (5) Branch facility means a facility (a) which is
23 separate from a principal facility, (b) which offers a full program
24 and full student services, (c) which is under the supervision of an
25 onsite director or administrator, and (d) (i) the ownership,
26 management, and control of which are the same as the principal
27 facility, which principal facility is responsible for the delivery
28 of all services, or (ii) at which education is offered by a

1 franchisee of a franchisor authorized to operate as a private
2 postsecondary career school pursuant to the act if the franchisor
3 establishes the course curriculum and guidelines for teaching at
4 the franchisee's facility;

5 (6) Commission means the Coordinating Commission for
6 Postsecondary Education;

7 (7) Commissioner means the Commissioner of Education;

8 ~~(7)~~ (8) Course of study or instruction means a program of
9 study, training, or instruction consisting of a series of lessons
10 or classes which are coordinated as a curriculum or program of
11 instruction to prepare or qualify individuals or improve or upgrade
12 the skills needed for employment, career opportunities, or any
13 specific occupation;

14 ~~(8)~~ (9) Department means the State Department of
15 Education;

16 ~~(9)~~ (10) Education or educational services means any
17 class, course, or program of occupational training, instruction, or
18 study;

19 ~~(10)~~ (11) Entity means any individual, company, firm,
20 society, group, association, partnership, limited liability
21 company, corporation, trust, or other person;

22 ~~(11)~~ (12) Grant, with respect to educational credentials,
23 means award, sell, confer, bestow, or give;

24 ~~(12)~~ (13) Home study school means a school which provides
25 correspondence lesson materials prepared in a sequential and
26 logical order for study and completion by a student on his or her
27 own, with completed lessons returned by the student to the school
28 for evaluation and subsequent return to the student, including

1 those schools which offer instruction by home study in combination
2 with in-residence training;

3 ~~(13)~~ (14) Offer includes, in addition to its usual
4 meaning, advertising, publicizing, soliciting, or encouraging any
5 person, directly or indirectly, in any form, to perform a described
6 act;

7 ~~(14)~~ (15) Out-of-state school means any school which has
8 its place of instruction or its principal location outside the
9 boundaries of this state and which offers or conducts courses of
10 instruction or subjects on the premises of the school, or provides
11 correspondence or home study lesson materials, or offers or
12 provides Nebraska students with courses of instruction or subjects
13 through activities engaged in or conducted outside the boundaries
14 of Nebraska;

15 ~~(15)~~ (16) Principal facility or main school means a
16 private postsecondary career school located in the State of
17 Nebraska;

18 ~~(16)~~ (17) Private postsecondary career school means any
19 organization or business enterprise which is not specifically
20 exempt under section 85-1604, which offers courses or subjects for
21 which tuition is charged, and at the place of business of which a
22 course of instruction is available through classroom instruction,
23 home study, or both to a person for the purpose of training,
24 preparing, or improving the person for an occupation even though
25 the organization's or business enterprise's principal efforts may
26 not be exclusively educational in nature;

27 ~~(17)~~ (18) Resident school means any school offering
28 courses of instruction to its students on the school's premises;

1 ~~and~~

2 ~~(18)~~ (19) Separate classroom means a supplemental
3 training space (a) which is located near the main school for the
4 purpose of expanding the educational offerings or for training an
5 overflow of students who cannot be accommodated at the main school,
6 (b) which is close enough to the main school to assure immediate
7 supervision and administration of all essential student services by
8 the main school and ready access by students to the student
9 services available, and (c) in which the only required onsite
10 service is teaching; and

11 (20) Short-term training means classes, courses, or
12 programs of instruction or study that are offered for the purpose
13 of training, preparing, or improving a person for an occupation
14 when (a) the total hours of instruction required for completion is
15 sixteen clock hours or less and (b) no final course grade is given
16 to persons enrolled.

17 Sec. 2. Section 85-1604, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 85-1604. The following education and schools are
20 exempted from the provisions of the Private Postsecondary Career
21 School Act:

22 (1) Schools exclusively offering instruction at any or
23 all levels from preschool through the twelfth grade;

24 (2) Education sponsored by a bona fide trade, business,
25 professional, or fraternal organization which is offered solely for
26 that organization's membership or offered without charge;

27 (3) Education provided by or funded by an employer and
28 offered solely to its employees for the purpose of improving such

1 persons in such employment;

2 (4) Education solely avocational or recreational in
3 nature as determined by the department;

4 ~~(4)~~ (5) Educational programs offered by a charitable
5 institution, organization, or agency as long as such education or
6 training is not advertised or promoted as leading toward
7 occupational objectives;

8 ~~(5)~~ (6) Public postsecondary schools established,
9 operated, and governed by this state or its political subdivisions;

10 ~~(6)~~ ~~Schools~~ (7) Except as provided in subsection (9) of
11 this section, schools or organizations offering education or
12 instruction which are licensed and regulated by agencies of this
13 state other than the department as of September 2, 1977, except
14 that such schools or organizations shall not be exempt from the
15 provisions of the act with respect to agents' permits and the
16 Tuition Recovery Cash Fund;

17 ~~(7)~~ (8) Schools or organizations which offer education or
18 instruction and which are licensed and regulated solely by an
19 agency of the federal government with respect to curriculum and
20 qualifications of instructional staff; ~~and~~

21 ~~(8)~~ ~~Private~~ (9) Not-for-profit private colleges, and
22 universities, and entities which award baccalaureate or higher
23 degrees and which maintain and operate educational programs for
24 which credit is given;

25 (10) For-profit colleges, universities, and entities
26 offering post-baccalaureate programs which must be submitted for
27 approval to the commission; and

28 (11) Entities exclusively offering short-term training.

1 Sec. 3. Section 85-1620, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 85-1620. (1) A school which has been accredited pursuant
4 to section 85-1619 may apply to the department for authority to
5 award associate degrees. Upon determining that the quality of the
6 courses of instruction at the applicant school meets the standards
7 established in the department's rules and regulations, the
8 commissioner may grant the applicant the authority to award an
9 associate degree and shall issue a certificate setting forth the
10 courses programs for which the associate degree may be awarded.
11 Such authorization shall continue so long as the school remains
12 accredited.

13 (2) A school which has been accredited pursuant to
14 section 85-1619 may apply to the department for authority to award
15 baccalaureate degrees. The department shall refer such degree
16 applications to the commission for its review and approval. The
17 commission shall make a determination setting forth the specific
18 program area and the name of the baccalaureate degree program. The
19 commission shall report its determination to the commissioner who
20 shall issue a certificate setting forth the programs for which the
21 baccalaureate degree may be awarded. Such authorization shall
22 continue so long as the school remains accredited.

23 Sec. 4. Section 85-1622, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 85-1622. An applicant for an agent's permit shall be an
26 individual of good reputation and character and shall represent
27 only private postsecondary career schools which meet the minimum
28 standards established pursuant to sections 85-1606 and 85-1608.

1 Each person desiring to perform the services of an agent in this
2 state shall make application to the department upon forms to be
3 provided by the department. The application shall state the school
4 which the applicant intends to represent and shall include the
5 applicant's social security number. An agent shall obtain a
6 separate agent's permit for each school represented. A single
7 agent's permit and surety bond for one school with one or more
8 branch facilities shall extend to cover all branch facilities. The
9 application for an agent's permit shall also be accompanied by
10 evidence of a surety bond as provided in section 85-1640 and
11 payment of the application fee provided in section 85-1643.

12 If any school which the applicant intends to represent is
13 not domiciled in this state, the application shall be accompanied
14 by the information required of schools making application for
15 authorization to operate and evidence to show that its place of
16 business outside this state has been licensed or approved for
17 operation by the appropriate state agency in the state in which it
18 is domiciled. If the state of domicile of the school has no
19 authorization law for private postsecondary career schools or no
20 such law applies to a particular school or course of study or
21 instruction concerning which the applicant intends to act as an
22 agent, the school shall (1) submit all information required of
23 schools applying for authorization to operate in this state and
24 show evidence that it has been accredited either by an accrediting
25 agency recognized by the United States Department of Education as
26 specified in section 85-1609 ~~or by the State Department of~~
27 ~~Education following an onsite evaluation of the school with all~~
28 ~~costs of the evaluation borne by the school~~ and (2) file with the

1 department a school bond in at least the amount required by section
2 85-1639.

3 Sec. 5. Section 85-1640, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 85-1640. The application for an agent's permit shall be
6 accompanied by a good and sufficient surety bond in a penal sum of
7 five thousand dollars. The bond shall be executed by the applicant
8 as principal and by a surety company qualified and authorized to do
9 business in this state. The bond may be in blanket form to cover
10 more than one agent for a private postsecondary career school, but
11 it shall cover each agent for the school in a penal sum of five
12 thousand dollars. Bonds in blanket form shall be executed by the
13 school as principal. The bond shall be conditioned to provide
14 indemnification to any student or enrollee or his or her parent or
15 guardian determined to have suffered loss or damage as a result of
16 any act or practice which is a violation of the Private
17 Postsecondary Career School Act by the agent and that the surety
18 shall pay any final judgment rendered by any court of this state
19 having jurisdiction upon receipt of written notification of the
20 judgment. Regardless of the number of years that such bond is in
21 force, the aggregate liability of the surety thereon shall in no
22 event exceed the penal sum thereof. The bond may be continuous.

23 Sec. 6. Section 85-1643, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 85-1643. (1) The Private Postsecondary Career Schools
26 Cash Fund is created. All fees collected pursuant to the Private
27 Postsecondary Career School Act shall be remitted to the State
28 Treasurer for credit to the fund. The fund shall be used only for

1 the purpose of administering the act. No fees shall be subject to
2 refund.

3 (2) ~~Fees~~ Except as provided in subsection (4) of this
4 section, fees collected pursuant to the act shall be the following:

5 (a) Initial application for authorization to operate, two
6 hundred forty dollars plus ~~twenty~~ twenty-four dollars per program
7 of study offered;

8 (b) Renewal application for authorization to operate, one
9 hundred twenty dollars plus ~~twenty~~ twenty-four dollars per program
10 of study offered;

11 (c) Approval to operate a branch facility, one hundred
12 twenty dollars;

13 (d) Late submission of application, ~~fifty~~ sixty dollars;

14 (e) Initial agent's permit, ~~fifty~~ sixty dollars;

15 (f) Agent's permit renewal, ~~twenty~~ twenty-four dollars
16 per year;

17 (g) Accreditation or reaccreditation, one hundred twenty
18 dollars;

19 (h) Initial authorization to award an associate degree,
20 one hundred twenty dollars;

21 (i) Significant program change, ~~fifty~~ sixty dollars;

22 (j) Change of name or location, ~~twenty-five~~ thirty
23 dollars; and

24 (k) Additional new program, one hundred twenty dollars.

25 (3) ~~Fees~~ Except as provided in subsection (4) of this
26 section, fees for out-of-state schools may include, but shall not
27 exceed the following:

28 (a) Certificate of approval to recruit, ~~five~~ six hundred

1 dollars annually;

2 (b) Initial agent's permit, one hundred twenty dollars;
3 and

4 (c) Agent's permit renewal, ~~forty~~ forty-eight dollars.

5 (4) ~~Beginning July 1, 2001, the board may establish fees~~
6 ~~in excess of those stated in subsection (2) of this section.~~ The
7 board shall consult with the advisory council established pursuant
8 to section 85-1607 regarding any increase in fees under the act.
9 ~~Fees may be increased~~ The board may increase fees by not more than
10 five twenty percent once each three years and shall be set out year
11 for three consecutive years. Such fees shall be set out in the
12 rules and regulations adopted and promulgated by the board.

13 Sec. 7. Original sections 85-1603, 85-1604, 85-1620,
14 85-1622, 85-1640, and 85-1643, Reissue Revised Statutes of
15 Nebraska, are repealed.

16 Sec. 8. Since an emergency exists, this act takes effect
17 when passed and approved according to law.